

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**AMERICAN METALS & COAL
INTERNATIONAL, INC.,
a Delaware Corporation,**

Plaintiff,

v. CIVIL ACTION NO. 2:05-0822

**WHITE MOUNTAIN MINING CO., LLC,
a West Virginia Limited Liability Company,
APACHE MINING CO., LLC,
a West Virginia Limited Liability Company,**

Defendants,

**WHITE MOUNTAIN MINING CO., LLC,
a West Virginia Limited Liability Company,**

Counterclaimant and Third Party Plaintiff,

v.

**AMERICAN METALS & COAL
INTERNATIONAL, INC., a corporation;
AMERICAN METTALLURGICAL COAL
SALES, L.L.C., a limited liability company;
and SCM, INC., a corporation,**

Counterclaim and Third Party Defendants.

and

SCM, Inc., a corporation,

Counterclaimants and Third Party Plaintiff

v.

**WHITE MOUNTAIN MINING CO., LLC,
a West Virginia Limited Liability Company,
APACHE MINING CO., LLC,
a West Virginia Limited Liability Company,**

Counterclaim and Defendants

RULE 26(F) REPORT OF PARTIES

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, counsel for the parties conferred by March 2, 2006.

1. Pursuant to the Federal Rules of Civil Procedure 26(f), and the Court's Order and Notice Regarding Discovery and Scheduling, A. B. Maloy, Esq., Counsel for Plaintiff American Metals & Coal International, Inc. presents the draft Rule 26(f) Report prepared by said counsel. This report memorializes agreements reached between all parties to the above-styled matter.

2. **Pre-Discovery Disclosures.** These parties will exchange on or before May 15, 2006 the disclosures required by F.R.C.P. 26(a)(1).

3. **Discovery Plan.** The parties propose to the Court the following discovery plan:

- (a) Discovery will be needed on the following subjects: All factual matters as set forth in the pleadings.
- (b) The parties propose that all discovery shall be commenced in time to be completed on or before December 1, 2006.
- (c) A maximum number of 25 interrogatories will be allowed by each party to any other party with responses being due 30 days after service thereof.
- (d) A maximum number of 25 requests for admissions will be allowed by each party to any other party with responses to same being due 30 days after service thereof.
- (e) Parties will be allowed to take a maximum number of 10 depositions, unless otherwise agreed upon between counsel.
- (f) Each deposition shall be limited to one day of seven (7) hours unless extended by agreement of the parties.
- (g) Plaintiff shall designate all expert witnesses that may be called at trial to testify and provide expert reports and information as required by Rule 26(a)(2) no later than October 1, 2006.

- (h) Defendants shall designate all expert witnesses that may be called at trial to testify and provide expert reports and information as required by Rule 26(a)(2) no later than October 1, 2006.
- (i) Supplementation required under Rule 26(e) shall be due within a reasonable time period.

4. **Other Items.**

- (a) The parties do not request a conference with the Court before entry of the scheduling order.
- (b) The parties do request a Pretrial Conference consistent with the Rules of Civil Procedure, Local Rules of Civil Procedure and the Court's usual practice and time frames, consistent with the trial date set by the Court. The parties request that said PreTrial Conference take place on or about February 15, 2007.
- (c) Plaintiff should be allowed until June 1, 2006 to join additional parties and to amend the pleadings.
- (d) Defendants should be allowed until June 1, 2006 to join additional parties and to amend the pleadings.
- (e) All potentially dispositive motions should be filed within 45 days after the close of discovery, on or before January 15, 2007.
- (f) Settlement can be evaluated any time.
- (g) Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from all parties consistent with the Court's rules and procedures after the close of discovery and settlement conference.
- (h) The parties propose that the parties shall each have 15 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).
- (i) This case should be ready for trial by March 1, 2007 and at this time is expected to take approximately two days.

5. **Local Rule 2.01(b) Matters.**

- (a) The parties represent that this case is not complex and does not require monitoring in an individualized and case specific manner through case management conferences;

- (b) The parties have yet to agree upon disputed facts that have been alleged in the pleadings, but will consider in good faith stipulations to disputed facts as discovery progresses in this case;
- (c) At this time the parties do not consent to trial by a Magistrate Judge;
- (d) The parties are willing to consider alternative dispute resolution, including mediation consistent with L.R. Civ. P. 5.01, at any time they may reach an agreement as to the same, but no later than January 15, 2007;
- (e) The parties represent that Paragraph 5 of LR Civ. P. 2.01(b) is not applicable because no scheduling conference is required or requested.

6. **Local Rule 2.01(c) Matters.**

- (a) The parties represent that there are not other matters which need to be addressed.

**AMERICAN METALS & COAL
INTERNATIONAL, INC.,**

By Counsel,

PREPARED BY:

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